

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Clerk's Minutes
Before the Honorable James O. Browning

CASE NO. 19-CR-77-JB

DATE: January 15, 2020

TITLE: USA v Nissen

COURTROOM CLERK: J. Wright

COURT REPORTER: J. Bean

COURT IN SESSION: 9:10AM-9:59AM

TOTAL TIME: 49 MINUTES

TYPE OF PROCEEDING: MOTION TO WITHDRAW AS COUNSEL [DOC. 100]
MOTION FOR DISCOVERY [DOC. 98]

COURT RULING: MOTION TO WITHDRAW AS COUNSEL [DOC. 100]-GRANTED
MOTION FOR DISCOVERY [DOC. 98] – WILL BE RESET

ATTORNEYS PRESENT FOR PLAINTIFF(S):

Susan Porter

ATTORNEYS PRESENT FOR DEFENDANT(S):

Paul Mysliwicz

PROCEEDINGS:

9:10AM COURT IN SESSION; COUNSEL ENTER APPEARANCES; DEFENDANT APPEARS IN CUSTODY.

9:11AM GOVERNMENT IS READY TO PROCEED TO SENTENCING AND DISCUSS HIS OBJECTIONS TO
PSR.

9:12AM MS PORTER HAS MADE AN EFFORT TO DISCUSS THE PSR AND OBJECTIONS WITH
DEFENDANT BUT DEFENDANT HAS REFUSED TO MEET WITH ATTORNEY. MS. PORTER
BELIEVES SHE AND THE DEFENDANT ARE AT AN IMPASSE.

9:20AM COURT ASKS IF GOVERNMENT SHOULD BE REMOVED; DEFENDANT STATES IT IS OKAY
WITH HIM TO HAVE THE GOVERNMENT PRESENT. DEFENDANT'S SISTER, KIMBERLY
NISSEN, ADDRESSES THE COURT WITH HER CONCERNS REGARDING WHAT SHE BELIEVES
WAS INEFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL. SHE ALSO BELIEVES MS. PORTER

HAS NOT MADE EFFORTS TO HELP HER BROTHER.

9:26AM COURT DESCRIBES THE APPEAL PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL AND THE JUDGMENT TO DEFENDANT AND HIS SISTER. COURT EXPLAINS EVERYONE MUST WORK TOGETHER TO CONCLUDE THE CASE SO THAT DEFENDANT CAN APPEAL .

9:29AM SISTER CONTINUES TO VOICE HER FRUSTRATION. DEFENDANT STATES HE IS CURRENTLY IN PROTECTIVE CUSTODY.

9:33AM COURT ASKS MR. NISSEN TO DISCUSS HIS POSITION ON CHANGE OF COUNSEL.

9:34AM DEFENDANT STATES HIS POSITION; HE STATES HE HASN'T REFUSED TO SEE MS. PORTER. HE STATES HE TRIED TO DISCUSS WITH MS. PORTER REGARDING HIS FILING OF MOTIONS AND THE SENTENCING MEMORANDUM.

9:43AM DEFENDANT WANTS HIS MOTIONS FILED. DEFENDANT STATES HE CANNOT WORK WITH MS. PORTER.

9:44AM MS. PORTER DISCUSSES HER POSITION, STATING THAT THE DEFENDANT HAD CHOSEN NOT TO MEET WITH MS. PORTER.

9:6AM GOVERNMENT DOES NOT BELIEVE THAT MS. PORTER AND DEFENDANT CAN GET ALONG; HE STATES HE BELIEVES THAT MS. NISSEN HAS REPRESENTED THE FACTS AS SHE UNDERSTANDS THEM AND THAT MS. PORTER IS DOING THE SAME. GOVERNMENT BELIEVES THAT MR. NISSEN AND HIS SISTER DO NOT ACTUALLY UNDERSTAND MS. PORTER NOT FILING CONSTITUTIONAL THEORIES.

9:50AM COURT GRANTS MOTION TO WITHDRAW AS COUNSEL.

9:54AM COURT DISCUSSES APPOINTMENT OF NEW COUNSEL.

9:59AM COUNSEL HAVE NOTHING FURTHER; COURT STANDS IN RECESS.